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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,568	08/10/2001	David Teller	BIRE-0002-1	5263
22506	7590	08/20/2004	EXAMINER	
JAGTIANI + GUTTAG 10363-A DEMOCRACY LANE FAIRFAX, VA 22030			EDWARDS JR, TIMOTHY	
			ART UNIT	PAPER NUMBER
			2635	Lf

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,568

Applicant(s)

TELLER, DAVID

Examiner

Timothy Edwards, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11,30-45,56-63 and 68-78 is/are allowed.
- 6) ☒ Claim(s) 12-16,19,20,22-26,46,47,50-54,64,65,79-83,86,87 and 89-91 is/are rejected.
- 7) ☒ Claim(s) 17,18,21,27,48,49,55,66,67,84,85 and 88 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

This application repeats a substantial portion of prior Application No. 08/940,349, or 09/306,907 filed 09/30/97 and 05/07/99 respectively, and adds and claims additional disclosure not presented in the prior application (i.e. claims 79, 84, 85 and 91). Since this added disclosure is not named in the prior application, such claims are entitled only to the filing date of the continuation-in-part application (see MPEP 201.11(a)).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-16,20,22-25,28,29,46,47,51-54,64,65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al '394 and further in view of Huguet et al [EP 703 462 A1].

Considering claim 12, Jacobsen discloses a) communicating a health signal from a sensor unit on an individual to a receiving unit (see col 3, ll 36-41); b) processing the health signal to determine if an emergency condition exists (see col 3, ll 57-64); c) sensor unit receives power from a battery (see col 9, ll 8-12); except Jacobsen does not specifically recite battery power is determined by counting the number of transmissions

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that has occurred or indicating a low battery state when a predetermined number of transmission have occurred. However, Jacobsen is concern with the conservation of battery power (see col 9, ll 8-14, col 12, ll 20-21 and col 15, ll 26-30) and displaying problem situation to a user (see col 11, ll 41-50). Jacobsen states power management software or hardware may be provided to maximize battery life. Huguet teaches on page 3, paragraphs A-C and E the determination of battery power by counting the number of transmission that have occurred and indicating a low power state based on the number of transmission that have occurred. Even though, Jacobsen does not specifically recite determining battery power one of ordinary skill in the art would recognize the importance of power conservation and maintaining knowledge of battery power remaining in a critical situation. Therefore, it would have been obvious to one of ordinary skill in the art to modify the Jacobsen power management circuit to include a counter for counting the number of transmission to determine battery power and indicate this to the user as taught by Huguet because both references are concern with battery life of a battery in a portable device.

Considering claim 13, Jacobsen discloses the limitation of this claim in col 2, ll 40-47, col 3, ll 41-45, col 4, ll 25-28, col 5, ll 3-6, and col 15, ll 31-35.

Considering claim 14, Jacobsen discloses the limitation of this claim in col 6, ll 22-26.

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Considering claim 15, Jacobsen discloses the limitation of this claim in col 3, ll 57 to col 4, ll 8.

Considering claim 16, Jacobsen discloses the limitation of this claim in col 8, ll 51-64.

Considering claim 20, Jacobsen discloses the limitation of this claim in col 3, ll 16-19 and col 10, ll 15-44.

Considering claim 22, the limitations of this claim are interpreted and rejected as stated in claim 12; displaying patient's health status at a receiving unit (see col 9, ll 21-30).

Considering claim 23, Jacobsen discloses the limitation of this claim in col 3, ll 51-64.

Considering claim 24, the limitations of this claim are interpreted and rejected as stated in claim 13.

Considering claim 25, Jacobsen discloses the limitation of this claim in col 3, ll 56 to col 4, ll 8 and col 8, ll 51-64.

Considering claim 28, the limitations of this claim are interpreted and rejected as stated in claim 15.

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Considering claim 29, the limitations of this claim are interpreted and rejected as stated in claim 16.

Considering claim 46, the limitations of this claim are interpreted and rejected as stated in claims 12 and 22.

Considering claims 47,65 the limitations of these claims are interpreted and rejected as stated in claim 13.

Considering claim 51, Jacobsen discloses the limitation of this claim in col 3, ll 57 to col 4, ll 8.

Considering claims 52,53 Jacobsen discloses the limitation of this claim in col 6, ll 2-7, see fig 1, item 14.

Considering claim 54, Jacobsen discloses the limitation of this claim in col 9, ll 21-30.

Considering claim 64, the limitations of this claim are interpreted and rejected as stated in claims 12 and 22.

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Claims 19,26,50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al '394, Huguet et al '462, and further in view of Besson et al [US 5,862,803].

Considering claim 19, Jacobsen does not specifically recite the activation of a sensor unit in response to an emergency condition. However, Jacobsen discloses col 4, ll 25-32 the activation of a drug delivery system or ventilator support under battlefield conditions. Besson teaches the activation of a sensor in response to an emergency condition. Therefore, it would have been obvious to one of ordinary skill in the art to modify the emergency activation device of Jacobsen system to a sensor as taught by Besson because Jacobsen is discloses the activation of a device under emergency conditions.

Considering claim 26, the limitations of this claim are interpreted and rejected as stated in claim 19.

Considering claim 50, the limitations of this claim are interpreted and rejected as stated in claim 19.

Claims 79-83,86,87,89-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al '394.

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Considering claim 79, Jacobsen discloses a) detecting at least one health sign characteristic of an individual (see col 3, lines 4-7); b) producing a health signal from a sensor (see col 3, lines 21-35); c) communicating the health signal from an individual to a receiving unit (see col 11, lines 5-10 and col 12, line 65 to col 13, line 9); d) extracting at least one health factor from an independent data source (see col 4, lines 61-67); e) Jacobsen does not specifically recite processing the health signal and the extracted health factor to determine if an emergency condition exists. However, Jacobsen discloses in col 4, lines 40-60 a command unit comprises a command post base unit which, provides more comprehensive physiological condition history to improve treatment of an individual and personnel at a central command post can instruct the medic on diagnosis and treatment options as the medic is en route to the casualty. Jacobsen discloses in col 12, lines 49-53 the receiver analyzing conditions of cold; heat or exertion is too much for a soldier to handle. Jacobsen discloses in col 13, lines 17-29 the constant communication of sensor data to a receiver which determines the course of treatment for an individual. All of these things would suggest the Jacobsen system has the capacity to process the health signal and the extracted health factor to determine if an emergency condition exists because Jacobsen addresses the use of health factors to determine a course of treatment for an individual patient. This would suggest the use of history data to treat a patient because if the patient had a history of shortness of breath or respiratory problems or heart problems this would be consider in a case of over exertion and would be used to determine if an emergency condition exists.

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Considering claim 80, Jacobsen does not specifically recite a health factor comprises a pollen count. However, Jacobsen discloses in col 11, lines 28-32 the use of a plurality of additional sensors.

Considering claim 81, Jacobsen discloses the limitation of this claim in col 11, lines 33-39.

Considering claim 82, Jacobsen does not specifically recite a data source comprising the Internet. However, in col 15, lines 31-35 Jacobsen discloses the sharing of information with other command units and with computers which are otherwise not connected to the system. This would suggest any network, which shares information and the Internet, would come under other computers, which share information. Therefore, it would have been obvious to one of ordinary skill in the art the Jacobsen system comprises means to use the Internet as a data source because Jacobsen discloses the desire to share information with computers not connected to a military system.

Considering claim 83, Jacobsen discloses the limitation of this claim in col 4, lines 61-67.

Considering claim 86, Jacobsen discloses the limitation of this claim in col 11, lines 5-10.

Considering claim 87, Jacobsen discloses the limitation of this claim in col 8, line 65 to col 9, line 7.

Considering claims 89,90 Jacobsen discloses the limitations of these claims in col 3, line 64 to col 4, line 8 and col 11, lines 33-39.

Considering claim 91, Jacobsen does not specifically recite detection of an emergency condition relating to a patient's prescribed medication. However, detection of the taking of medication is well known in the art and the issuing of an alarm (i.e. an emergency condition) if the prescribed medication is not taken is also known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to include the detection of the lack of taking a prescribe medication because certain symptoms are caused by not taking a prescribed medication and Jacobsen is concern with the monitoring of a patient health.

***Allowable Subject Matter***

Claims 1-11,30-45,56-63, and 68-78 are allowed.

The following is an examiner's statement of reasons for allowance: with respect to claims 1, 30, 56, and 68 the closes prior art Jacobsen et al '394 fails to teach or suggest in the environment of monitoring health signs of an individual a method comprising, operating electrical power is applied to the receiving unit in an initialization

mode, the receiving unit determines if the receiving unit has received an identification signal from the sensor unit, and receiving a health signal only from a sensor unit having the received identification signal.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claims 17,18,21,27,48,49,55,66,67,84,85,88 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kuusela et al '416, Walker et al '765, Bader '264 and Christiansen et al '408.

1. Any inquiry concerning this communication should be directed to Examiner Timothy Edwards at telephone number (703) 305-4896. The examiner can normally be reached on Monday-Thursday, 8:30 a.m.-4:00 p.m. The examiner cannot be reached on Fridays.

If attempt to reach the examinee by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703) 305-4704.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700, Mon-Fri., 8:30 a.m.-5:00 p.m.

Any response to this action should be mailed to:

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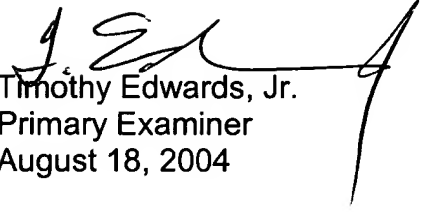
or fax to:

(703), 872-9314 (for formal communications intended for entry)

Or:

(for informal or draft communications, please label "PROPOSED"  
or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

  
Timothy Edwards, Jr.  
Primary Examiner  
August 18, 2004